

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6066**

**BILL NUMBER:** SB 27

**NOTE PREPARED:** Feb 24, 2006

**BILL AMENDED:** Feb 23, 2006

**SUBJECT:** Alcohol & Tobacco Matters.

**FIRST AUTHOR:** Sen. Long

**FIRST SPONSOR:** Rep. Stutzman

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X **GENERAL**  
X **DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) This bill requires a person who trains:

- (1) alcohol servers; and
- (2) individuals who plan to train alcohol servers; to hold a trainer certificate issued by the Alcohol and Tobacco Commission (ATC).

The bill also requires:

- (1) a certified trainer to renew a certificate every three years by filing a renewal application form, completing a refresher course, and paying a \$45 fee;
- (2) certain retailer permittees, dealer permittees, or management representatives of the retailer or dealer permittees to be trained not later than 120 days after the date the permittee receives a permit; and
- (3) certain retailer permittees and dealer permittees to ensure that each alcohol server is trained not later than 120 days from the date the alcohol server begins employment.

(Current law requires a retail permittee, dealer permittee, or management representative to be trained not later than 90 days after the date the permittee receives the permit and an alcohol server be trained not later than 90 days after the date of employment.)

This bill requires:

- (1) the ATC to notify retailer and dealer permittees of the certification requirements at the time the permittees renew the retailer or dealer permits;
- (2) the ATC to approve and establish training programs; and
- (3) training programs to provide a server certificate to individuals who successfully complete the

program.

The bill allows the ATC to:

- (1) observe training at any time; and
- (2) adopt rules to carry out the training and certification requirements. This bill changes the deadline by which permittees and alcohol servers must be trained from January 31, 2008, to January 1, 2009.

It requires:

- (1) a liquor dealer, beginning January 1, 2007, to display liquor in a clearly designated area where the presence of a minor is prohibited without a parent or guardian who is at least 21 years of age, unless the liquor dealer meets certain requirements; and
- (2) dealer permittees to have at least one employee who holds an employee's permit and, beginning January 1, 2007, to ensure that a sales clerk working on the license premises receives training.

The bill also provides that:

- (1) the ATC may adopt rules to implement these requirements;
- (2) an alcoholic beverage permit of any type may not be issued to an entity that is not domiciled or admitted to do business in Indiana;
- (3) any city that owns a golf course may obtain a permit for the retail sale of alcoholic beverages; and
- (4) a permittee has only powers expressly granted by statute or rules of the ATC.

This bill allows a holder of an alcoholic beverage permit to sell or offer to sell an alcoholic beverage on credit to an individual who does not hold an alcoholic beverage permit.

It provides that a primary source of supply or wholesaler may not provide an illuminated advertising sign to a dealer or retailer in a manner that violates the trade practice restrictions of the ATC or the law.

The bill requires the ATC to issue a permit to the State Fair Commission.

This bill allows for extended time for alcohol sales on New Year's Eve if New Year's Eve falls on a Sunday.

The bill also allows the ATC to conduct random unannounced inspections of locations where alcoholic beverages are sold or distributed.

This bill defines as a club an association or corporation in a consolidated city that has been in existence for 25 years, held a bingo license for ten years, and does not allow persons under the age of 18 to be members, guests, or workers.

The bill allows a person at least 18 years of age and under 21 years of age to receive or purchase alcoholic beverages as part of an enforcement action.

The bill also prohibits the issuance of an alcoholic beverage employee's permit to an individual with two convictions for operating while intoxicated if:

- (1) the first conviction occurred less than ten years before the date of the permit application; and
- (2) the individual completed the sentence for the second conviction less than two years before the permit application.

This bill provides that if an individual has at least three convictions for operating while intoxicated and the

individual completed the sentence for the last conviction more than ten years before the permit application, the individual may apply to the ATC for a permit, but the ATC may grant or deny the application.

The bill also provides for the revocation of a permit upon an individual's subsequent conviction for operating while intoxicated.

The bill also makes changes concerning certain sells and deliveries of beer by holders of brewer's permits.

This bill makes changes to the Cigarette Fair Trade Act.

It repeals provisions that:

- (1) require an individual, partnership, corporation, limited partnership, or limited liability company to meet Indiana residency requirements to obtain a retailer's, dealer's or wholesaler's permit;
- (2) prohibit the issuance of a retailer's, dealer's, or wholesaler's permit to a partnership unless each member of the partnership possesses the same qualifications required of an individual permit applicant; and
- (3) exempt certain entities from the Indiana residency requirement.

It repeals a provision concerning certain certification requirements.

**Effective Date:** Upon Passage; July 1, 2006.

**Explanation of State Expenditures:** *Alcohol Server Training:* This bill will increase the administrative costs of the Alcohol and Tobacco Commission (ATC). P.L. 161-2005 required the ATC to adopt rules to carry out the training and certification requirements for alcohol server training. Therefore, there should be no additional costs incurred from these provisions. The provisions in the bill requiring the ATC to notify retailer and dealer permittees of the certification requirements at the time the permittees renew the retailer or dealer permits will result in new administrative costs to the ATC. The bill also requires the ATC to establish an alcohol server training program. ATC excise officers currently provide a free voluntary training to approximately 3,000 retailers each year.

It is anticipated that the ATC can implement the provisions of this bill through the use of existing staff and resources. The costs may also be offset by the fee established in the bill for trainers to obtain a training certificate.

(Revised) *ATC Random Unannounced Inspections:* The bill also requires the ATC to conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with the law. This provision will increase the administrative costs of the ATC, but ultimately the amount of the increase will be determined by the number of inspections the ATC chooses to conduct.

**Explanation of State Revenues:** *Alcohol Server Training:* It is estimated that this bill will increase training certificate fee revenue that will be deposited in the ATC's Enforcement and Administration Fund. The bill repeals IC 7-3-1.5-7 (added by P.L. 161-2005) which currently requires that a trainer must be a(n):

- (A) nonprofit corporation or organization; or
- (B) for-profit corporation or organization that does not have an interest in a permit issued to a primary source of supply, a wholesaler, a retailer permittee, or a dealer permittee;

in order to receive a training certificate. By repealing this section, the bill increases the number of entities or

persons that could obtain a training certificate. The bill also sets the fee for a training certificate at \$45. The ATC currently has the authority to set this fee, but the bill takes this authority away from the ATC and sets the fee at \$45. As of January 6, 2006, the ATC reported that they had not set a fee or adopted rules for training and certification requirements for alcohol server training.

(Revised) *Alcohol Sales in Designated Areas*: The bill requires that beginning January 1, 2007, liquor dealers (other than a package liquor store) to sell alcoholic beverages in a designated area separated from the sale of nonalcoholic retail merchandise on the dealer's licensed premises. The bill prohibits a minor from entering a designated area without a parent or guardian who is at least 21 years of age. The bill also prohibits liquor being displayed within 30 feet of a public entrance. The permittee is not required to have a designated area if the permittee:

- (1) displays liquor in an area that is less than 25 linear feet; and
- (2) uses at least 1 of the following security measures:
  - (A) The liquor is displayed behind the retail counter.
  - (B) Each bottle of liquor has a security cap.
  - (C) The liquor is displayed adjacent to the pharmacy counter.

(Revised) *Penalty Provision*: If a person violates any of the provisions in this bill the person commits a Class B misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue would likely be small.

(Revised) *Sales of Alcohol on New Year's Eve Day*: The bill allows the supplemental retailer to sell alcohol on Sunday, December 31, from 10:00 a.m. to 3:00 a.m. the following day. This would only affect sales of alcohol in years where December 31 is a Sunday. The provision of the bill is not estimated to have a significant fiscal impact.

(Revised) *City Owned Golf Course*: The bill allows a city owned golf course to sell alcohol if the golf course obtains all the necessary permits. Under current law this was only allowed for golf courses owned by the cities of Anderson and Mishawaka

(Revised) *Brewers' Permit Changes*: The bill prohibits a brewer from delivering beer directly to a consumer if the brewer manufactures more than 20,000 barrels of beer in a calendar. Under current law a brewer could sell and deliver beer directly to a consumer at either the consumer's residence or the brewery if the quantity was  $\frac{1}{2}$  barrel or less.

The bill also requires that if a brewers' permit is going to be issued to any entity, other than an individual, the entity must be domiciled in Indiana or admitted to do business in Indiana.

(Revised) *Permit Issuance Residency Requirements*: This bill repeals provisions that: (1) require an individual, partnership, corporation, limited partnership, or limited liability company to meet Indiana residency requirements to obtain a retailer's, dealer's or wholesaler's permit; and (2) prohibit the issuance of a retailer's, dealer's, or wholesaler's permit to a partnership unless each member of the partnership possesses the same qualifications required of an individual permit applicant. These changes in the permit requirements above could lead to a greater number of applicants for permits from nonresidents.

(Revised) *State Fair Commission Permit*: The bill requires the ATC to issue a retailer permit to the State Fair

Commission. This would allow sales of alcohol on the State Fair Grounds at anytime allowed under current law. It would still be unlawful to sell alcohol during the State Fair.

(Revised) *Employee Permits*: This bill would prohibit the issuance of an employee permit to any applicant who has 2 unrelated convictions for operating while intoxicated (OWI) if:

(1) the first conviction is less than 10 years old; and

(2) the sentence for the second conviction was completed less than 2 years before the application.

The bill allows the ATC to issue an employee's permit to a person with 3 unrelated convictions for OWI if the most recent conviction is at least 10 years old.

This bill also requires dealer permittees to have at least one employee who holds an employee's permit and, beginning January 1, 2007, to ensure that a sales clerk working on the license premises receives training. The impact on fee revenue from this provision is indeterminable. It is estimated that most dealer's currently employ someone who has an employee's permit.

(Revised) *Club Permit*: This bill allows a club permit to be issued to an association or corporation in a consolidated city that has been in existence for 25 years, held a bingo licence for at least ten years, and does not allow persons under the age of 18 to be members, guests, or workers.

(Revised) *Background*: To the extent that any of the provisions of this bill affect alcoholic beverage sales, state revenues will be impacted. Sales changes will affect collections of both alcoholic beverage excise taxes and the Sales Tax. The alcoholic beverage excise taxes are distributed in varying amounts to the following funds: state General Fund, the Post War Construction Fund , the ATC Enforcement and Administration Fund , the Addiction Services Fund , and the Wine Grape Market Development Fund. The state retains 50% of the General Fund distribution of beer and wine excise tax revenue. The remainder is distributed to cities and towns based on population. Sales Tax revenue is deposited in the: Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

**Explanation of Local Expenditures:** (Revised) *Penalty Provision*: A Class B misdemeanor is punishable by up to 180 days in jail.

**Explanation of Local Revenues:** (Revised) *Penalty Provision*: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** Alcohol and Tobacco Commission; State Fair Commission.

**Local Agencies Affected:**

**Information Sources:**

**Fiscal Analyst:** Adam Brown, 317-232-9854.